

# Appendix F

Transcript

September 13, 2006 hearing before the Water Board

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1 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
2 OAKLAND, CALIFORNIA  
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7 SEPTEMBER 13, 2006

8 EXCERPT OF PROCEEDINGS: ITEM 12  
9 PROPOSED BASIN PLAN AMENDMENT TO ESTABLISH  
10 A TMDL FOR SEDIMENT IN THE NAPA RIVER  
11  
12  
13  
14

15 LOCATION:

16 1515 CLAY STREET, SUITE 1400  
17 OAKLAND, CALIFORNIA  
18  
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22  
23 Transcription By:  
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1 P R O C E E D I N G S

2  
3 **CHAIRMAN MULLER:** So ordered. Moving on to  
4 planning. Okay. Good job.

5  
6 **MR. WOLF:** Yes, that concludes the action items for  
7 the meeting. At this point we have Item 12, the  
8 proposed amendment to the Basin Plan that would  
9 establish a TMDL for sediment in the Napa River and  
10 this a hearing to receive testimony.

11 There is no action scheduled today, but this is the  
12 opportunity to follow-up on the comments that the  
13 public has been able to provide in written format and  
14 I'd like Mike Napolitano and Dyan Whyte to provide the  
15 presentation.

16 **MR. NAPOLITANO:** Thank you, Chairman Muller and  
17 members of the Board. It's my pleasure to be here  
18 today to present our proposed plan to reduce sediment  
19 and enhance habitat in the Napa River and its  
20 tributaries.

21  
22 I will start with a description of the Napa River  
23 and its biological diversity, then I will describe the  
24 salmon and steelhead runs and conditions contributing  
25 to their decline, then Diane White will summarize the

1 proposed Basin Plan amendment and conclude our  
2 presentation.

3  
4 The Napa River is 55 miles long and drains the  
5 third largest water shed in our region. In addition to  
6 its wind Napa should be famous for its biological  
7 diversity. The river and its tributaries support 14  
8 native fish species, including significant spawning  
9 runs of steelhead and salmon. The steelhead run in the  
10 watershed today is probably the largest run in any  
11 stream that drain directly into San Francisco Bay.

12 The salmon run has also been notable in recent  
13 years, number a few to several hundred adult fish.  
14 Sorry about that. In addition to the Napa River's  
15 listing as impaired by sediment, the decline of the  
16 steelhead in this watershed is a major driver for the  
17 proposed TMDL and habitat enhancement plan.

18 We estimate that since the late 1940s the run has  
19 decreased from around 7,000 adults to less than a few  
20 hundred at present. We have less information about  
21 Chinook Salmon, but it is likely that the Napa River  
22 once supported large runs of these fish. We're  
23 encouraged by the salmon spawning in the river in  
24 recent years.

1 Fish need different types of river habitat at  
2 different stages in their lifecycle. A healthy river  
3 shapes its own bed and banks and forms a food plain.

4  
5 A healthy river is further characterized by  
6 flowing water and temperatures that are favorable to  
7 fish help and growth, plenty of riparian vegetation  
8 providing shade, food, bank stability and large woody  
9 debris, complex channel topography alternating between  
10 shallow and deep areas, fast and slow water to provide  
11 favorable sites for spawning, rearing, resting, and  
12 feeding, clean gravel deposits where fish can lay their  
13 eggs and a functional floodplain that protects bed and  
14 banks during high flows and provides areas for fish to  
15 feed and rest.

16 Let me point out for you some features in this  
17 photo of the Napa River that illustrate what we mean  
18 when we discuss the need for complex habitat. There is  
19 a large gravel bar in the middle of the photo with  
20 adjacent shallow fast moving water flowing over a rocky  
21 area called a riffle.

22 This then transitions into a deep pool and adjacent  
23 to the channel there is good riparian cover comprised  
24 of both younger and older trees. Also in this reach  
25 there is a floodplain beyond and behind the gravel bar.

1           In contrast, in this reach of the river near  
2 Zinfandel Lane the stream channel and the habitat are  
3 much more uniform. The channel is straighter, the  
4 banks are steeper, and the depth and velocity of the  
5 water does not change much. There are no gravel bars  
6 as well. A reach like this one does a better job of  
7 encouraging invasive species than supporting the  
8 natives that we need to protect.

9           We have identified five problems that are  
10 contributing to the decline of steelhead and salmon  
11 runs in the Napa River watershed. Some of these  
12 problems also affect other native fish and wildlife  
13 species.

14  
15           The five problems are: too much fine sediment in  
16 the streambed, which decreases fish egg survival,  
17 erosion of the bed and banks of the Napa River and its  
18 lower tributary reaches, which greatly reduces the  
19 quantity of spawning and rearing habitat for salmon and  
20 other species, low flows and warm water temperatures in  
21 the dry season, which limit growth and survival of  
22 juvenile steelhead and salmon, fourth a large number of  
23 road crossings, diversions, and dams in tributary  
24 channels, which may block access to and from spawning  
25 areas and, fifth a lack of large wood in channels which  
is important, because large wood helps form the complex  
habitat that the fish need.

1           There are five major sources of sediment to the  
2 Napa River. Four are illustrated in this slide behind  
3 you: natural erosion, an example of which, is the large  
4 landslide at the top left. Road related erosion, both  
5 from dirt roads and from crossings, surface erosion in  
6 vineyards, in some cases downstream gullies formed by  
7 runoff and gullies caused by intensive historical  
8 grazing, up until the 1970s a large portion of the  
9 watershed was grazed, the fifth major source of human  
10 caused sediment is bed and bank erosion along the Napa  
11 River and the lower tributaries.

12           The red arrow in the photograph indicates the  
13 former bed elevation of the river, eight to ten feet  
14 above its elevation today. Changes of this magnitude  
15 can result from levee building, channel straightening,  
16 large tributary dams, dredging, gravel mining, and  
17 removal of large wood from the channel.

18           Our studies indicate that without human caused  
19 erosion the average natural sediment load in the Napa  
20 River and its tributaries would have been 150,000 tons  
21 per year during the last decade. However, the actual  
22 total sediment load in that period averaged  
23 approximately 270,000 tons per year, which is about  
24 180% of natural background.  
25

1 As you can see from this chart the major human  
2 caused sediment sources to the Napa River are roads,  
3 bed and bank erosion, surface erosion in vineyards, and  
4 gullies formed by grazing, and vineyard runoff, each of  
5 these contribute about 20% of the total. Other small  
6 human caused sediment sources include sediment  
7 discharged from the upper watershed through dams, which  
8 equals about 6% of the total.

9 Also a suite of urban sources including  
10 residential, commercial, industrial, and construction  
11 sites, and sewage treatment plants collectively account  
12 for about 2% of the total.

13  
14 I'm now going to turn the microphone over to Dyan  
15 Whyte who will present the proposed basin plan  
16 amendment and conclude our presentation.

17 **MS. WHYTE:** Good morning, my name is Dyan Whyte in  
18 the TMDL section. First, I'd like to thank Mike both  
19 for that intro and also to recognize Mike has been  
20 working out in this watershed for over 16 years,  
21 heading up a lot of the technical studies and really  
22 knows the watershed in and out.

23  
24 In developing this plan to address the sediment  
25 impairment listing we realized that by itself a  
sediment TMDL was not going to fully restore the

1 fishery. Based on our scientific findings we feel  
2 obligated to develop a holistic plan to enhance  
3 steelhead and salmon populations and the overall health  
4 of the native fish in this watershed.

5  
6 Therefore, the Basin Plan amendment before you  
7 today includes both sediment TMDL, which will fulfill  
8 federal requirements that relate to the sediment  
9 impairment listing and a habitat enhancement strategy  
10 that addresses the causes of fish population declines.

11 This broader approach is similar to the urban  
12 creeks diazinon TMDL and water quality attainment  
13 strategy that you adopted last year and, as you may  
14 recall, that basin plan amendment went beyond simply  
15 addressing pesticide toxicity from one pesticide,  
16 diazinon, as required by law, but also included a  
17 broader approach to address all aspects of pesticide  
18 toxicity in urban creeks.

19 What I'll do in the next few slides is highlight  
20 the key components of the TMDL and habitat enhancement  
21 strategy, discuss the implementation actions that we  
22 are recommending, and then review the comments we  
23 received from stakeholders in the recent comment  
24 period.

1 The proposed basin plan amendment will address two  
2 water quality targets that define the condition of a  
3 healthy streambed and protect salmon spawning habitat  
4 and steelhead as well, excuse me. These are spawning  
5 gravel permeability in stream bed scoured depth.

6  
7 In order for the eggs of salmon and steelhead to  
8 survive the streambed must be relatively clean and by  
9 that I mean contain very little fine sediment so that  
10 water flows freely through the gravel beds. Gravel  
11 permeability is a measure of this.

12 Then once the fish lay their eggs they need to stay  
13 in place until they hatch. Too much fine sediment in  
14 the stream bed will force the current to dig down  
15 deeper and scour the streambed, washing away the eggs.  
16 So our second target describes the maximum depth of  
17 streambed scour that still allows the eggs to hatch in  
18 place where they are laid.

19 The TMDL establishes a sediment loading cap. This  
20 cap is 125% or 1.25 times the natural background  
21 sediment load and what we are doing here is recognizing  
22 that erosion is indeed a natural phenomenon and we're  
23 allowing for some human caused sediment inputs in  
24 addition to the natural sediment load.

1 In order to attain the 125% cap our calculations  
2 show that a 50% reduction in human caused sediment  
3 inputs is needed. And again, these human caused  
4 sediment inputs relate to poorly managed roads,  
5 vineyards, grazing lands, and bed and bank erosion.

6  
7 In order to assure that source categories implement  
8 sediment controls, the basin plan amendment identifies  
9 a number of regulatory mechanisms that will contribute  
10 to achieving the TMDL. These include provisions to  
11 assure that all non-point sources comply with the  
12 state's non-point source policy.

13 In general, these provisions entail regulating  
14 grazing lands and vineyards via waste discharge  
15 requirements or wavers of those WDRs. Development of  
16 waver conditions for grazing lands is already underway  
17 and was initiated as part of the Tamales Bay, Napa  
18 River, and Sonoma Creek pathogen TMDLs.

19 Development of waver conditions for vineyards and  
20 rural lands will be a new effort and, fortunately, a  
21 lot of work has already been done in this area and we  
22 look forward to building upon programs like fish  
23 friendly farming and the Napa County regulations aimed  
24 at protecting water quality.

1           Municipal, industrial, and construction storm water  
2 NPDS permits are already in place for reducing this  
3 relatively small source. And finally with the goal of  
4 reducing erosion of the bed and bank of the Napa River  
5 and its lower tributaries by 50% we support and  
6 encourage land owners and agencies to embark on a  
7 collaborative process to solve this challenging  
8 problem.

9           One such effort currently underway is the  
10 Rutherford Dust Project which expects to fully restore  
11 4.6 miles of the Napa River in the Rutherford Reach.  
12 We hope to build upon this exciting project and it has  
13 broad stakeholder support. In fact, we just also  
14 learned last week that the state board announced it  
15 will award \$500,000 to Napa to expand upon the  
16 Rutherford Dust Project and begin addressing another  
17 nine miles of the Napa River.

18           Leaving the TMDL aside for a moment the next few  
19 slides describe the habitat enhancement plan we're  
20 proposing to make sure that Napa River's steelhead and  
21 salmon populations are restored and protected.  
22 Successful implementation of this plan will require  
23 broad based collaboration and, therefore recommends but  
24 does not require, key actions aimed at protecting the  
25 sensitive life stages for salmon and steelhead.

1           The first action item is to enhance habitat  
2 complexity. Here we focus on collaborative river  
3 restoration projects similar to Rutherford Dust. The  
4 second action item addresses flows and challenges local  
5 municipalities and land owners to better manage their  
6 water supplies while assuring that flows are sufficient  
7 to protect fish.

8           This calls on the State Board Division of Water  
9 Rights to assure that all water uses are legal and that  
10 all water rights permits fully consider fishery needs.  
11 We've met with state board staff a number of times and  
12 have their support for the actions that we specified in  
13 our plan.

14           We recognize that water rights is a complex and,  
15 indeed, sensitive area and working through these issues  
16 will require close collaboration on the part of  
17 municipalities, land owners, water board staff, and the  
18 state board.

19           The third action area relates to fish passage and  
20 challenges land owners, local government agencies,  
21 state and federal agencies to work together to identify  
22 and develop a plan to remove or modify key fish  
23 migration barriers so that fish can get to and from  
24 spawning areas.  
25

1           And the fourth and last area includes actions that  
2 will enhance shade cover along the river and its  
3 tributaries to help maintain the cooler water  
4 temperatures required by steelhead and salmon.

5  
6           We received 16 comment letters on the proposed  
7 basin plan amendment and we will be responding to all  
8 of them in writing, and our responses will be included  
9 in your board package for the adoption hearing. Today  
10 I'd like to give you a brief overview of these  
11 comments.

12           A number of agencies and environmental groups  
13 including EPA, the California Department of Fish and  
14 Game, NOAA or the National Marine Fishery Service,  
15 Friends of the Napa River, and the Sierra Club all  
16 commended us for going beyond the TMDL requirements to  
17 develop a more comprehensive habitat enhancement plan  
18 which focuses on recover of steelhead and salmon  
19 populations, not just reducing sediment in the  
20 watershed.

21           Stakeholders raised a number of issues and we are  
22 in the process of meeting with them to review their  
23 concerns. So let me walk you down this list and  
24 briefly summarize each issue.  
25

1 EPA raised some questions about how the TMDL is  
2 specified and about allocations for NPDS permits.  
3 Specifically, they requested we specify allocations for  
4 municipal, construction, and industrial storm water  
5 permits.

6  
7 We met with EPA and we will be proposing changes to  
8 assure that the TMDL meets all federal requirements,  
9 and these changes will not affect the implementation  
10 plan. We also met with the Living Rivers Council.  
11 They raised a number of questions regarding the science  
12 behind the TMDL.

13 We're confident that the scientific basis of the  
14 TMDL is sound and this is supported by our principal  
15 science advisor at Berkley and our peer reviewers. Now  
16 the Living Rivers Council's suggests for ways in which  
17 the TMDL package can be strengthened are very helpful  
18 and we will consider a number of their ideas as we  
19 develop our final recommendation for your  
20 consideration.

21 The next issue raised is that our CEQA  
22 documentation does not go far enough in outlining  
23 foreseeable actions and their consequences. Similarly,  
24 water supply agencies expressed concern that the TMDL  
25 may affect the reliability of their water supply.

1           We have met with all the municipalities and  
2 emphasis that the plan does not require, although it  
3 does recommend, that they evaluate ways to enhance  
4 operational flexibility to assure adequate water both  
5 for municipal consumption and for fish, and we look  
6 forward to working with these agencies, and helping the  
7 public understand what is at risk and what there is to  
8 be gained from careful stewardship of the water.

9           And finally, Napa County and others commented on  
10 the potential cost of implementing the actions that I  
11 described. In our view these three areas of concern:  
12 environmental review, water rights, and overall cost  
13 are all part of a larger question about the public's  
14 resolve to restore and protect the fishery in the Napa  
15 River watershed. Through our adaptive implementation  
16 process we expect to work through these issues in a  
17 fair and equitable way bringing the public along with  
18 us.

19           Our next steps are to answer any questions you have  
20 for us today, continue to engage with agencies and  
21 interested parties, prepare our formal responses to  
22 comments, and revise the basin plan amendment and staff  
23 report as necessary, and then package that and bring  
24 that all back before you for consideration at a  
25 adoption hearing.

1           Now one further note on the adoption hearing is  
2 that with the change in schedule in November for the  
3 scheduled November board meeting we are going to have  
4 to re-notice this basin plan amendment for its formal  
5 consideration and we're giving serious thought to re-  
6 noticing that for the December board meeting so that we  
7 have ample time to meet with all the interested  
8 stakeholders, review our responses to comments before  
9 we formally present that. So with that I'll be happy to  
10 answer any questions.

11           **MR. WALDECK:** Thank you. Two quick questions here,  
12 first is what is, I don't know if I got the word right  
13 or not, but what is Rust for Dust? You said it was a  
14 [INAUDIBLE].

15           **MS. WHYTE:** Rutherford Dust, excuse me, Rutherford  
16 Dust.

17           **MR. WALDECK:** Oh.

18           **MS. WHYTE:** It's for the area near Rutherford  
19 along the Napa River.

20           **MR. WALDECK:** Oh, Rutherford Dust.

21           **MS. WHYTE:** And dust, d-u-s-t, dust is the name of  
22 the project.  
23  
24  
25

1           **MR. NAPOLITANO:** It actually has to do with the  
2 fame of the area as a wine growing region and there was  
3 a famous wine maker who commented on being able to  
4 taste the dust in the wine from the area.

5  
6           So this group of grape growers that makes wine in  
7 that part of the watershed has banded together to  
8 reevaluate their relationship with river and look at  
9 ways in which they could both enhance things like bank  
10 stability and habitat complexity, and they've done a  
11 great job of bringing together all the land owners  
12 along this four and a half mile reach to look at a  
13 comprehensive restoration plan for the river.

14           **MR. WALDECK:** And as we play water board Jeopardy  
15 and I think of the answer that Napa Valley is the third  
16 largest watershed in the area. For \$1,000 John Muller,  
17 tell us who the other, no, no. What are the other two?

18           **CHAIRMAN MULLER:** Remember I'm chairman.

19  
20           **MR. WALDECK:** No, I'm sorry that's incorrect.

21  
22           **MS. WHYTE:** Can I make a call? Alameda Creek and  
23 Guadalupe River, Coyote Creek.

24  
25           **MR. WALDECK:** So Coyote Creek, which is in South Bay  
and then Alameda Creek -

1           **MR. WOLFE:**     Southeast Bay.

2  
3           **MR. NAPOLITANO:**   Which includes the Livermore  
4 Valley.

5  
6           **MR. WALDECK:** That's good to know, because I  
7 wouldn't have guessed that.   Thank you.

8           **CHAIRMAN MULLER:** Mill Valley is not in the running.  
9 Shalom, please.

10  
11           **MR. ELIAHU:**   Let's see, you mentioned in here, we  
12 have about 464 metric tons per kilometer square, which  
13 is according to my calculations, comes to be 78  
14 centimeters per year in the area.

15  
16           Is that a cumulative?   I mean this is sediment  
17 coming to the area, to the river and it's actually  
18 going, all of it, to the Bay. So if we continue taking  
19 away 78 centimeters per year we will go no where.

20           **MR. NAPOLITANO:**   I would have to actually do the  
21 calculations myself, but I -- at this point I would be  
22 surprised if it was that high over the whole watershed,  
23 you know, I -- the bulk density that we're assuming I  
24 think is 1.6 metric tons per cubic meter.   So if you  
25 turn that into a volume and then you put that over the

1 whole watershed, the watershed area is 1,100 square  
2 kilometers. So we could figure it out.

3  
4 A portion -- yeah and I think it would come out as  
5 a lower amount, although we did do some calculations  
6 earlier and we did find that the yield that was  
7 reaching the city of Napa was very similar to the  
8 amount that was historically being dredged. So there  
9 seemed to be some equivalents to our calculations in  
10 that regard, but I couldn't transform that into a  
11 lowering rate or a unit soil erosion rate for you off  
12 the top of my head.

13 **MS. WHYTE:** Just keep in mind that not all the  
14 erosion happens from the surfaces all over although it  
15 is a way to translate that back, but with significant  
16 portions that can come, for instance, from land sliding  
17 or from some deep gullies the overall portion of  
18 lowering or surface erosion throughout the watershed  
19 would be lower and that's balanced by areas that would  
20 be higher contributors.

21 **MR. ELIAHU:** Okay, well we have in here then --  
22 that's fine. We are not reducing the natural process,  
23 leaving the same incision. It's also a natural process  
24 in the end you're reducing that by 50%.

1           **MS. WHYTE:**   Incision can be a natural process, but  
2 it can also be accelerated and so what we're getting at  
3 here is to the degree it's being accelerated by human  
4 caused factors, and that's where we look at historic  
5 data to get a feel of what the river was doing prior to  
6 changes within the watershed, and then we also look at  
7 other watersheds within the area and within California  
8 in a similar geologic regime and compare it to that as  
9 well.

10           **MR. ELIAHU:**   The incision is a factor on the  
11 velocity of water and it's really a factor of  
12 [Inaudible] of the river, and if you are not changing  
13 that I don't think you can reduce the incision.

14           **MS. WHYTE:**   Well a number of factors come into  
15 play. It's not only, per se, the velocity of the  
16 water, it's the amount of water -- it's the amount of  
17 water that could reach the creek during peak flow  
18 events where the erosion takes place and we know that  
19 is altered by land uses.

20           So that's the peak flow attenuation as we look at  
21 that is to what degree or land use is altering the  
22 amount of water that reaches the river at the peak or  
23 the height of the storm, because if there's more water  
24 than should be there at that time then it's going to be  
25 more erosive.

1           The other interesting finding, and this relates to  
2 what I talked about with scour, is as the bed gets  
3 finer, as there are more fines on the bed than the  
4 river has -- there's less resistance to it eroding.

5  
6           So you will have more erosion as a result to  
7 changes in the bed surface itself, and then also as you  
8 narrow the river in certain locations due to  
9 construction of levees for instance or if you gravel  
10 mine the other river, which are other factors that come  
11 into play, then you also alter that process.

12           So we're getting at is, and this is why it's a big  
13 question, is you need to comprehensively look at the  
14 geomorphology of the river, ways that it could be  
15 stabilized and the effect of land uses and then see how  
16 those land uses can be modified.

17           **MR. ELIAHU:** You have no control of changing the  
18 bed, the constitution of the bed. If there is a  
19 problem there there's a problem. We are not going to  
20 bring gravel there. Whatever is there that's there,  
21 you're not going to change it.

22  
23           **MS. WHYTE:** Well the bed will change as a -- so if  
24 the bed is too fine, for instance, we're looking at  
25 reducing the loading of fine sediments throughout the  
watershed which has an effect on that, and likewise if

1 the bed is being altered because of mining, gravel  
2 mining, for instance, which was historically done there  
3 will be changes there.

4  
5 So there's a suite of options and it's really  
6 within the newer area of really a challenge from a  
7 geomorphic perspective about how to do this which is  
8 why, in fact, we're looking to embark on this in a  
9 collaborative way. We're not putting forth a  
10 requirement on a single individual to undertake an  
11 action that we know it's going to have that effect.  
12 And the work that they're doing with Rutherford Dust is  
indeed looking at a suite of those options.

13  
14 **MR. ELIAHU:** [Inaudible]

15  
16 **MR. NAPOLITANO:** In fact, with the Rutherford  
17 Project design, which is well underway, one of the  
18 approaches they're taking to reducing velocity and  
19 reestablishing a balance between the river's ability to  
20 transport sediment and the resistance of the bed and  
21 banks is by providing the river with more room.  
They're increasing the width of the river.

22  
23 They're also installing biotechnical structures,  
24 things like pieces of large wood and boulders which  
25 will provide local energy dissipation. They've done a

1 lot of hydraulic calculations and I have a lot of  
2 confidence in the approach that they're taking.

3  
4 **CHAIRMAN MULLER:** Okay. We have a number of cards  
5 from elected and agency individuals. I just want to  
6 remind us that this is just in the planning process  
7 again, and if we have something new to add to the  
8 discussion we've received all your comments, but we'll  
9 let you come up and make your testimony and we'll try  
10 not to repeat all the comments.

11 So I'll start with Supervisor Dillon please, first  
12 and that'll be followed up by David Smith, US EPA. And  
13 if you haven't filled out a card then grab a card.

14  
15 **SUPERVISOR DILLON:** Thank you very much and I  
16 appreciate your consideration earlier of time, but this  
17 topic is of such deep interest to us in Napa County  
18 that it's my pleasure to be here for the entire segment  
19 of this part of your agenda.

20 I'm here on my own, my board did not authorize me  
21 to come, however my comments are not in any way  
22 contradictory to the comment letter that was made by  
23 our board, in fact, approved unanimously by our board.  
24 I only come to support that presentation and to  
25 supplement it by saying that first of all, I'd like to  
thank staff for their presentations in Napa and

1 Yachtville in late July and their subsequent  
2 communications with us. We've been working on this for  
3 a long time and the dialog's been very helpful.

4  
5 The second thing is as we mentioned, the county  
6 mentioned in its previous correspondence, Napa County  
7 supports this board's overall goals and we desire to  
8 work constructively with you to achieve those goals.  
9 What I'd like to emphasis today is our appreciation for  
10 your recognition, the effectiveness of our conservation  
11 regulations.

12 We have conservation regulations unlike any other  
13 county in California and perhaps almost anywhere in the  
14 United States with regard to our agricultural  
15 operations, and since we adopted those in the early  
16 1990s we have continually reinforced them, including  
17 the erosion control process and the environmental  
18 protections that are provided to the Napa County -- to  
19 the Napa River and to its watershed.

20 We look forward to working cooperatively with you  
21 on implementation of the plan that you adopt. We're  
22 currently conducting a general plan update and that  
23 will reinforce our commitment to the protection and  
24 conservation of our natural resources. Thank you,  
25 again, for your time this morning.

1           **CHAIRMAN MULLER:** Thank you for coming down. Next  
2 will be David Smith from US EPA and then followed by  
3 Mr. Dillon from National Marine Fisheries and don't  
4 know if there's any relationship, none.

5  
6           **MR. SMITH:** Well good morning Chairman Muller and  
7 members of the board. I am David Smith and I'm the  
8 TMDL team leader for EPA Region 9 in San Francisco. I  
9 really appreciate the opportunity to be here and lend  
10 our support to this proposed TMDL. As you know we're  
11 interested in all TMDLs that are near the finish line.  
12 Particularly -

13           **CHAIRMAN MULLER:** Really?

14  
15           **MR. SMITH:** Yes. I'm particularly interested in  
16 sediment TMDLs though. I've either written or co-  
17 written more than a dozen of those. I've reviewed well  
18 over a hundred of them written for dozens of western  
19 rivers and I really wanted to appear here and say that  
20 the quality of the science work and the public  
21 involvement work in this project is really exemplary.

22           The science work underlying this TMDL is some of  
23 the best I've ever seen and Mike and Diane and their  
24 colleagues that worked on this really a several year  
25 period really should be commended for that. It's  
extraordinarily good work. Particularly, in -- I want

1 to site the limiting factors analysis, which is very  
2 thorough and it's really nice to see a comprehensive  
3 view of a river and the many things that influence its  
4 quality and its ability to perform its role.

5  
6 The numeric indicators that were selected are very  
7 innovative and we think supportable and I think the  
8 sediment source analysis is also really excellent. I'm  
9 really impressed by how closely your staff has worked  
10 with folks in the local community over several years to  
11 introduce the concept here, try to work with them to  
12 come up with an implementation approach that is  
13 sensitive to their needs and their interests I think,  
14 but ultimately it's going to lead to improvement in  
15 conditions in the Napa River.

16 There's urgency to dealing with the problems in the  
17 Napa River and so we believe that time adoption of this  
18 TMDL will help accelerate the pace of actions that will  
19 help restore the river.

20 I wanted to make a couple of specific comments.  
21 First of all, we've reviewed all the comments that  
22 other folks submitted and I know that first of all,  
23 there was some concern about this idea of looking at  
24 flows and in particular recommending actions to enhance  
25 base flow in the river.

1 I wanted to note that under federal regulations  
2 when you write a TMDL you're required to consider  
3 critical conditions of flow and so we would say not  
4 only is it a good idea to look at how flow or lack  
5 there of influences beneficial use attainment, but it's  
6 something that's vital to do in TMDL analysis, because  
7 there's such a close link between the amount of water  
8 and the effect of pollutants in the water.

9 So we think it makes a lot of sense there and we  
10 really do support that recommendation to try to enhance  
11 base flow along with the other aspects of the habitat  
12 enhancement plan that's in place here.

13  
14 I'm also aware that some commenters were proposing  
15 additional science work and, you know, we could keep  
16 studying this, Mike's been working on this probably 10  
17 or 15 years of his career and he could do so for  
18 another 10 or 15 years and we could probably find ways  
19 to improve this science. I don't think we have the  
20 time to do that and I don't think it would yield any  
21 significant value in the decision you're making and it  
22 would cost us time that we don't have to really move  
23 forward and continue restoring the river.

24 EPA raised a couple of concerns in our comments on  
25 this and we've had good discussions with your staff to  
try to resolve those. None of our comments took issue

1 with the basic approach the staff is taking in the TMDL  
2 and its implementation plan, we support those.

3  
4 One issue had to do with the way in which the TMDL  
5 was expressed, expressing it as a percentage of natural  
6 background in our view and I guess in our legal view  
7 maybe it was not as precise enough a definition of the  
8 decision your making as it should be. And so it  
9 sounds, based on our last meeting last week, that maybe  
10 we've arrived at a way to express the TMDL so that it's  
11 a real number or set of numbers to try to meet rather  
12 than 125% of a number to be calculated later in  
13 essence.

14 So we think that issue's been dealt with and, as  
15 Dyan mentioned, we emphasis that there is a need to  
16 express individual wasteload allocations for individual  
17 dischargers, NPDES dischargers, but I wanted to  
18 emphasize that in doing so, and I think we've found a  
19 way to do that, we think it will -- it has no effect on  
20 the basic focus of this TMDL.

21 Most of the NPDES discharges are not significant  
22 sediment discharges and we think that setting  
23 individual wasteload allocations will really have no  
24 effect on the way that they're being asked to implement  
25 their permits now and so it is truly a technical  
correction. So I know that anytime anybody -- a

1 permittee gets an individual wasteload allocation  
2 they're kind of concerned, is this going to mean big  
3 differences for me, in this case it will not.

4  
5 So with that I just want to close and say again,  
6 excellent job by your staff and we really hope that you  
7 can move forward on this toward adoption in December or  
8 whenever it's brought back to you. Be happy to answer  
9 any questions, if you have any.

10 **CHAIRMAN MULLER:** Thank you.

11  
12 **MR. SMITH:** Thank you.

13  
14 **CHAIRMAN MULLER:** Next will be Joe Dillon and then  
15 we'll go with Sandi with Farm Bureau.

16  
17 **MR. DILLON:** Yes, good morning, my name is Joe  
18 Dillon; I'm the water quality coordinator for Southwest  
19 Region of the National Marine Fishery Service. I  
20 really don't have much to add to the letter that we  
21 submitted and following David is always sort of an easy  
22 task, he's very thorough.

23 I do want to emphasis that we are pleased that this  
24 TMDL is addressing not just the 303(d) list of  
25 pollutants, but also other forms of pollution which are  
impairing the designated beneficial use. We think that

1 is a wise and efficient way to move forward in this  
2 process and personally I just want to note Mike's  
3 relationship with people up in the Napa.

4  
5 I've been involved in TMDL processes in the North  
6 Coast for several years and it's quite refreshing to  
7 see a meeting go off that is as civil as they have been  
8 in the Napa area and to see a Regional Board employee  
9 treated with respect and that's due to Mike's long and  
10 hard work in this watershed.

11 I hope that as this moves forward toward adoption  
12 and implementation that the Regional Board will be able  
13 to leave Mike working in that watershed for a  
14 significant chunk of his time and not bounce him to the  
15 next 303(d) listed sediment water body. So if there  
16 are any questions I will be happy to answer them.

17 **CHAIRMAN MULLER:** Okay. Thank you.

18  
19 **MR. DILLON:** Thank you.

20  
21 **CHAIRMAN MULLER:** I mixed up the cards a little but  
22 I will go with Sandi and then we'll go with -- I'm not  
23 sure -- the president of Friends of Napa Rivers,  
24 Bernard. Yeah, we'll get you after Sandi. I'm going  
25 mix it up a little bit so we get some different purpose  
so go ahead, please.

1  
2       **MS. ELLIS:** Thank you, Mr. Chairman, members of  
3 the board, Sandi Ellis, Napa County Farm Bureau. I  
4 would echo the comments of Joe Dillon, particularly  
5 with regard to commending your staff on this Herculean  
6 effort. It's been years and years that we've been  
7 learning about sediment loads and the geomorphology of  
8 a river and I'm proud to say that most farmers in Napa  
9 County not only know what geomorphology is, but can  
10 spell geomorphology.

11       So it's the process of just getting here to a draft  
12 implementation plan has been hugely educational and  
13 valuable to each and every member of the community and  
14 understanding what it takes to get a healthier  
15 watershed.

16       We do, as Farm Bureaus, support the goals as stated  
17 on Page 1 of your draft implementation plan and it  
18 calls for conserving steelhead and Chinook populations,  
19 enhancing the overall health of the native fish habitat  
20 and enhancing the aesthetic and recreational values of  
21 the watershed.

22  
23       Those are very important goals and I'm sure you  
24 worked long and hard in the entire region on those  
25 goals, but in our letter we specifically asked you to  
expand those goals and add one more goal, and that

1 would be to reflect and recognize the multiple uses,  
2 beneficial uses, within the watershed.

3  
4 And specifically in our letter we asked you to  
5 include another goal that "balances the need of all  
6 beneficial uses including agricultural and municipal  
7 water supplies" and that's really important to us.

8  
9 If we've learned anything from the contentious  
10 water issues of the state, particularly Cal-Fed, we  
11 know that it's not fish against farmers and it can't be  
12 fish against farmers and farmers don't want it to be  
13 fish against farmers. We're dealing with a wonderful  
14 healthy biodiverse watershed that does provide  
15 beneficial uses for the whole community and we want to  
16 protect and enhance those beneficial uses, but we feel  
17 that the agricultural beneficial use and the municipal  
18 beneficial use should also be noted in the preface. So  
19 we ask for that one specific change.

20  
21 There are two more specific changes that we ask for  
22 and those go really to the heart of the matter of the  
23 depth of the sediment TMDL. We would ask that Tables  
24 5.1-5.4, which really do not deal with the sediment  
25 load, they deal with peripheral issues and habitat  
complexity and we've heard from everyone how good that  
is to deal with the habitat complexity.

1 We don't dispute that. A holistic and healthy  
2 watershed approach is wonderful, but in the purview of  
3 what you're doing with the sediment impairment and a  
4 sediment load we believe that these other issues on  
5 habitat are being dealt with by other agencies and  
6 other processes and that by including it in the  
7 sediment TMDL we may be adding complexity, confusion,  
8 and possibly even conflicting processes in dealing with  
9 sediment flow.

10 The Department of Water Resources right now is  
11 dealing with in stream flow guidelines for the North  
12 Coast streams and is in a process there and it's hard  
13 enough for farmers who want to farm to understand the  
14 TMDL process, but to understand flow processes as  
15 managed by different jurisdictions adds complexity and  
16 confusion and if there is anything we want we want a  
17 straight forward understandable comprehensive process.

18 So we would ask you to consider that, not that  
19 flow is not important, but is this the right document  
20 and process to deal with flow issues for the watershed.

21  
22 And our third major change that we recommended in  
23 our letter is to revise Tables 4.1 and 4.2 dealing with  
24 the load reductions for grazing and vineyard  
25 (inaudible) to back into an approach that starts at  
Tier 1 and then escalates to Tier 3, what you're

1 presenting here today is a Tier 3 approach and we  
2 believe that a Tier 1 approach can and should work  
3 first, and then you see the results of that and if that  
4 isn't effective then you can escalate to a more  
5 stringent Tier 3 approach.

6  
7 So we've heard some comments today about  
8 understanding the macro numbers of the sediment load,  
9 reducing by half the man made cause of erosion. We'll  
10 submit to you that there aren't any farmers in Napa  
11 County that don't agree with that goal of keeping  
12 erosion minimized.

13 We want to keep our soil. We know we want to keep  
14 our soil and we've worked long and hard on best  
15 management practices and sustainable approaches to  
16 farming to know how best to do that and we will  
17 continue to do that, and the process of the TMDL will  
18 further that and allow us to enhance it. There's a  
19 certain amount of fear we have with this document,  
20 because it's so massive. How do we actually measure  
21 those?

22 When you're talking about road erosion, how do you  
23 know what's coming off now, how do you measure it, and  
24 how does an individual farmer or rancher get to a point  
25 to know what they have to do? I mean there are general  
BMPs that are in place now that can be put in place

1 that are even better, the measurement category we have  
2 some difficulty understanding that.

3  
4 And knowing if the overall goal of achieving a 50%  
5 reduction is that achievable? And there are some  
6 guestiments on the cost, but again, it's a great  
7 unknown and so working together we hope to develop more  
8 confidence and ability to understand that.

9 So in summary I would just say that we're very very  
10 pleased to work with you and your staff and the rest of  
11 the community on achieving these goals, because it is  
12 important and we'll commit to that. Thank you.

13  
14 **CHAIRMAN MULLER:** Thank you. It's encouraging to  
15 see you sitting with a supervisor too, that doesn't  
16 hurt. Okay, moving on. President of Friends of the  
17 Napa River and then I believe, is it Don Stephens?  
18 Okay, he'll be up next, wherever you are, I'm sorry.

19 **MR. KIEVET:** Good morning, my name is Bernhard  
20 Kievet, I'm the president of the Friends of the Napa  
21 River in Napa and we have made our comments through  
22 this process. We have worked with the agency for many  
23 years and I'd just like to expand or iterate what we  
24 have said in our comment letter to this process.

1           While we're not experts and we don't have the  
2 funds to hire specialists our main focus is on  
3 educating, help educating the public and in this  
4 particular case to educate people who have ownership to  
5 be responsible and to understand that protection is  
6 good for the environment, for the habitat, as well as  
7 for business.

8           And I think some of the examples that were  
9 mentioned here where we helped defining the project  
10 like the famous Rutherford Dust Society as well as  
11 other watershed projects and organizations have greatly  
12 benefited from this understanding that to do something  
13 that we perceive as good for the environment is also  
14 good for the business. As Sandi just said farmers  
15 don't want to lose their soil so that is sort of a  
16 natural process and it takes education to bring these  
17 together.

18           In particular we'd like to reiterate that we  
19 believe in voluntary actions and we would like to  
20 encourage this and I know Mike and his team is working  
21 on this to provide measurable targets, provide  
22 practical measurements and tools to do the job, and  
23 also to reward compliance, and honor exceedence.

24           And I think something that was presented earlier, which  
25 unfortunately I missed that Leslie presented here to

1 make the project something special, is certainly  
2 helpful in many ways.

3  
4 We are basically in the process of increasing or  
5 we'd like to increase the beneficial uses of the water  
6 and from my perspective it includes swimming in the  
7 river and boating, and of course while you're boating,  
8 and some of you have had the pleasure of experiencing  
9 this, is of course use the products of this wonderful  
10 agriculture that we have in the valley. So I think  
11 there's a wonderful sense of cooperation and synergy.

12 I mentioned already the good examples of the  
13 stewardships, but I'd like to conclude to say -- to  
14 encourage you to avoid too rigid regulations and  
15 certainly litigation. Thank you.

16  
17 **CHAIRMAN MULLER:** Thank you. We're looking forward  
18 to a offsite visit up there someday soon.

19  
20 **MR. KIEVET:** Absolutely. Anytime. Just let us  
21 know, Michael and Dyan have our -- yes. Thank you.

22  
23 **CHAIRMAN MULLER:** Thank you for all your dedication  
24 to the river as a private citizen. I think that's  
25 exemplary and to all your associates. Okay. Yes, sir.  
And then we'll do Kenneth Manfree.

1           **MR. STEPHENS:** My name is John Stephens; I  
2 represent EDEN, which environmental group. It's  
3 Environmental Defense for the Earth Now. It's based in  
4 Napa County. The TMDL relies on wavers in a number of  
5 statements throughout the document.

6           **CHAIRMAN MULLER:** Sir, may I have you speak up a  
7 little louder so we ensure everyone hearing you.

8           **MR. STEPHENS:** The sediment TMDL relies on wavers  
9 from regulation throughout the document. It has not  
10 emphasized regulation. It relies on the county  
11 conservation regs to provide guidance and regulation.  
12 It does not mention at all the need for the city and  
13 the county to coordinate their setbacks to have a  
14 common setback for the same stream.  
15

16           We also have noted that the TMDL does not address  
17 areas above dams. The county is arguing that the dams  
18 draft sediment and so therefore, it is not an area that  
19 needs protection, however, dams do release fine  
20 sediment, they do upset the normal sediment flow of the  
21 release waters down streams which causes incision and  
22 great damage to the watershed by -- when the water  
23 tries to reach sediment equilibrium.  
24  
25

1           It has taken too long for this TMDL to come to the  
2 board. In the 1980s the Napa was listed as impaired  
3 and it's because there has been a lack of  
4 staff and a lack of funding for this project and I  
5 would urge that the board provide more funding and more  
6 staff for this effort. Thank you.

7           **CHAIRMAN MULLER:** We like that more funding and more  
8 staff thing in the room I'm sure. We'll take those in  
9 to serious consideration. Kenneth, right?

10  
11           **MR. MANFREE:** My name is Kenneth Manfree, yes.

12  
13           **CHAIRMAN MULLER:** Thank you.

14  
15           **MR. MANFREE:** I want to thank the board for allowing  
16 me to speak to them and give them some of my concerns  
17 about the TMDL. I'm a private citizen speaking only on  
18 my behalf. I do not have any scientific training and I  
19 don't have any financial interest in the Napa River or  
20 any water control business of any kind. My concerns  
21 are as just a private citizen.

22           Today there was a very telling incident that  
23 occurred just a few minutes ago. Mr. Eliahu asked  
24 about the sediment measurement. They have measurement  
25 devices on the Napa River that give a figure for that,  
instead of getting a figure that he requested, he got a

1 song and dance by -- or this thing and this thing and  
2 this thing about 20 different items that weren't  
3 directly germane to his question. I've found that  
4 happening quite often in the meetings that we've had  
5 with the staff of the TMDL people.

6  
7 I got involved in watershed issues when the Napa  
8 Board of Supervisors passed a stream setback ordinance  
9 and I've been active since then. I've reviewed most of  
10 the documents that have come out of the staff of the  
11 department here, including the limiting factors  
12 analysis, which is more or less called TMDL Phase 1,  
13 the request for funding by the LIDR, the Lindar  
14 Project, where they took and laser beamed the Napa  
15 County watershed to determine the topography and  
16 finally, the TMDL report of June 30<sup>th</sup>.

17  
18 Between those three documents there are a great  
19 deal of inconsistencies that exist. I -- I -- I've  
20 made a -- I've gone through them and I've made up a  
21 little -- a detailed list of some of the  
22 inconsistencies I would like the board to take and look  
23 at.

24  
25 And this song and dance type thing has occurred  
before at the meetings we had that -- that -- and one  
of the most telling of them was Mr. Napolitano  
presented the Phase II TMDL report to Napa Board of

1 Supervisors. Supervisor Mark Luce asked him about key  
2 items in the TMDL Phase II that were omitted from the  
3 TMDL Phase I by Dr. William Dietrich. Mr. Napolitano's  
4 reply to the Board of Supervisors was, the limiting  
5 factors report was deficient in the facts.

6  
7 We just had a minute ago one of the speakers here  
8 alluded to this limiting factors report. That was  
9 followed by a public meeting in Yachtville when a  
10 question about the Dewberry Study of, I have a hard  
11 time with this, bianethic micro-invertabrates why it  
12 was not used in the TMDL. We got a reply from the  
13 staff, Mr. Napolitano, I do not believe the Dewberry  
14 Study was accurate.

15 Charles Dewberry conducted a five year study in  
16 conjunction with the Friends of the Napa River to study  
17 micro-invertebrates in the Napa River. It was a well  
18 planned study that led to the conclusion that the Napa  
19 River had an abundance of bianethic micro-  
20 invertebrates.

21 One final items I want to discuss, we have rural --  
22 a lot of rural roads in Napa and they showed a picture  
23 of a vineyard road and so much of the TMDL is related  
24 to rural roads. The method they use from this was what  
25 is commonly referred to as swag, s-w-a-g.

1           The LIDR project in it, when the request for money  
2 was there, they said we can identify rural roads and  
3 indicated that they could measure the distance of them  
4 instead of just using some wild scheme to estimate the  
5 rural roads. So I'm going to ask you before your board  
6 considers adopting this TMDL review all these  
7 inconsistencies that exist between the various parts,  
8 various documents that have been drafted for the TMDL.  
9 Thank you very much and I appreciate speaking to you.

10           **CHAIRMAN MULLER:** You're welcome. I would just like  
11 to comment that this is the first time you've been  
12 before me and us and you're welcome to criticize us as  
13 board members. I don't appreciate the criticism of  
14 staff. I'm one of those kind of chair. This song and  
15 dance I think they've given you a lot of years up there  
16 and we'll ensure that they respond to your questions  
17 and I think you.

18           **MR. MANFREE:** Okay. Thank you. If I maligned the  
19 staff I apologize for that.

20  
21           **CHAIRMAN MULLER:** Sounded to me like you did a  
22 little bit. So let's move on. We have Chris Malon and  
23 then we'll go to Cal Trans and they might be able to  
24 respond to some of the roads issues.

1           **MS. MALON:** Good morning, my name's Chris Malon and  
2 I am the manager of Living Rivers Council, which is a  
3 environmental group with about 75 people that are  
4 pretty involved in the watershed and we're a new group.  
5 We started in 2002 and our concern focuses on the  
6 health of the Napa River watershed and other watersheds  
7 in Napa County as well.

8           We did hire professional consultants to make  
9 comments on the Napa sediment TMDL, Dr. Bob Curry who's  
10 a hydrologist and geomorphologist, submitted comments  
11 on our behalf. We had concerns there about the 125% of  
12 background sediment number that is being used to set  
13 the numeric budget for sediment in the Napa River so he  
14 commented on that.

15           We also hired Pat Higgins, who is a fisheries  
16 biologist, and he's addressing concerns about the  
17 recover of the Sonoma Fishery and the Napa River  
18 watershed and whether this TMDL currently could reach  
19 that goal of restoring the fisheries for steelhead and  
20 Chinook.

21           Then we also hired Dennis Jackson, who's a  
22 hydrologist, and we had concerns about turbidity in the  
23 Napa River. I'm actually in my personal life I'm very  
24 active in rivers. I kayak a lot, since I was a young  
25 girl. I fish, fished many rivers, the Eel, the

1 Russian. Grew up on rivers, used to swim in them all  
2 the way to the head waters.

3  
4 So I can remember snorkeling and seeing salmon in  
5 the river, seeing salmon in the river. In the Napa  
6 River we do snorkel surveys. I am the project manager  
7 for snorkel surveys. We've done two years of that  
8 under the direction of Dr. Charlie Dewberry. I have  
9 actually snorkeled in all of the tributaries in the  
10 Napa River watershed.

11 When you get up high in the tributaries you can see  
12 the small fry and you can see the resident trout. When  
13 you get in the main stem you can hardly see your hand  
14 in front of your face, in the main stem during the  
15 summer. During the winter forget it, you can't -- it's  
16 massively turbid. We're concerned because the TMDL  
17 does not address turbidity and our consultants seem to  
18 agree with us on that.

19 So I would urge you to try to look up the turbidity  
20 information that Dr. -- that Dennis Jackson discusses.  
21 Turbidity can be toxic to aquatic life so we have met,  
22 and thank you to Mike Napolitano and Dyan Whyte, they  
23 met with us last week and we went over some of our  
24 concerns and they were very cordial in listening to us  
25 and we did map out, you know, some areas that we feel  
need more attention.

1           You gotta have water in order to have water quality  
2 and let me tell you, the Napa River is dying. The  
3 water is not reaching the river. I started kayaking in  
4 the summer of this year and we started in Calistoga,  
5 we've gone 15 miles and it's horrendous. Most of the  
6 creeks do not reach the river, in fact, we've only seen  
7 one trickle out of one eastern side trib.

8           There's over 200 illegal dams in the Napa River  
9 watershed of which you're state water resource board is  
10 looking into this problem, the flow issue and the North  
11 Coast -- the North Coast Water Rights Working Group has  
12 formed to try to make recommendations to your board on  
13 how to deal with illegal diversions, but we did not  
14 mention this to staff, but we were talking about it on  
15 the ride down here and we think that it's really  
16 important that the agencies coordinate with the local  
17 government on trying to prevent illegal diversions in  
18 projects as they're beginning.

19           We just had one project that came to our attention.  
20 It was a vineyard project and the owner wanted to use  
21 existing water on the project -- on the site, however,  
22 Fish and Game checked into it and the reservoir there  
23 was not listed, it did not have a water right permit  
24 and so we made additional comments that the person  
25 shouldn't be able to expand the vineyard on water that  
was gotten illegally.

1           So the -- the local government did, that would be  
2 Napa Valley Planning and Conservation Department, did  
3 recommend to the property owner that they seek other  
4 water so they're going to ground water. But that's just  
5 one recent example of what's happening with flow in the  
6 Napa River.

7  
8           Beneficial uses. I hope that my granddaughter,  
9 that was just born last week, can someday swim in the  
10 Napa River. I don't feel comfortable swimming in the  
11 Napa River, although I do, but I don't feel comfortable  
12 about it and I hope that there is a day that the Napa  
13 River can be of beneficial use to the public so that we  
14 can actually feel comfortable about swimming in it.

15           And I know that water goes to the Bay and the Bay  
16 is important to me also, because I grew up in this area  
17 and I think that the water should be good coming to the  
18 Bay and we don't want the sediment coming from the Napa  
19 River and covering up the fisheries in the Bay.

20           When I kayak down the Napa River you go from one  
21 stagnant pool to the next, it's full of putification,  
22 massive, massive bank failure. The one picture you saw  
23 up there, multiply it by hundreds. That's what's going  
24 on. Huge, huge, enormous 400 year old trees are  
25 falling into the river. It's -- it's sad. I don't

1 know any other way to say it. It is really sad and I  
2 hope we can do something about it.

3  
4 We need to have streams. We need to have river  
5 riparian protection. We need to have stream setbacks.  
6 We've got to diminish the amount of flow coming into  
7 the river during peak flows and we need those riparian  
8 buffers.

9 **CHAIRMAN MULLER:** Thank you. I need you to  
10 conclude, please.

11  
12 **MS. MALON:** I'm sorry?

13  
14 **CHAIRMAN MULLER:** I need you to conclude, please.

15  
16 **MS. MALON:** Okay. That's it. Thank you.

17 **CHAIRMAN MULLER:** Thank you. Congratulations on  
18 your new granddaughter. Next will be Ivan, thank you  
19 for your patience with coming down from Sacramento.

20 **MR. KARNESIS:** Good morning, Chair Muller and  
21 members of the Board. My name is Ivan Karnesis, I'm  
22 with Cal Trans, Office of Storm Water Policy,  
23 specifically, TMDL Sacramento. I want to just start  
24 out by saying that cal Trans is a leader nationwide in  
25 doing research for BPMS that would be appropriate for  
this type of TMDL.

1  
2       We study vegetation that we can plant on the sides  
3 of the roads. We look at slopes and water flow in  
4 conjunction with this vegetation maintenance and we  
5 have scientists doing this research and giving us  
6 results and staff members that are already experienced  
7 in implementing these kinds of things so I just wanted  
8 to throw that out there.

9       We didn't comment and I don't have any evidentiary  
10 comment today to offer. I just wanted to come up here,  
11 I put my card in with the idea that I might need to  
12 come up here and something was brought up today that  
13 prompted me to come up here. We were a bit confused  
14 about our responsibility as a permittee.

15  
16       It was clear that just by complying with our permit  
17 that -- that we would be okay and were relieved with  
18 that, however, there was a little confusion in that we  
19 were also along with the rural roads, given a 50%  
20 reduction and we thought well, you know, how do you --  
21 how do you cut zero in half.

22       We're already doing everything we can do so how do  
23 you go even further and then today it was mentioned  
24 that the EPA asked the staff to change a little bit  
25 with regard to the NPDS permittees and I was wondering  
if we could get a little heads up as to what that might

1 entail if that's at all possible, and that's all I  
2 have. Thank you very much for your time.

3  
4 **CHAIRMAN MULLER:** Dyan, please.

5  
6 **MS. WHYTE:** Yes. Just in response, one of the  
7 reasons I mentioned earlier, that we're possibly  
8 pushing the hearing until this December for adoption  
9 hearing is so that we can contact and make sure all the  
10 NPDS permit holders are contacted. What we -- EPA's  
11 asked us to do is just acknowledge those individual  
12 permittees for the general permits and then for the  
13 individual permits with a wasteload allocation.

14 We will recognize in some cases that not all those  
15 permits will -- that reductions may not be required,  
16 additional reductions. So what we foresee with Cal  
17 Trans we'll look -- we'll meet with them and discuss it  
18 is that their BMPs, we hope, should be sufficient.

19 **MR. WALDECK:** You just brought that up there, but I  
20 didn't here Cal -- I -- I didn't here US EPA bringing  
21 it up in their comments. I almost wanted to ask at the  
22 end of their comments there, is -- is that you final  
23 answer, you know? Just because we do want to make sure  
24 that they get all our comments in to us so they can be  
25 fully digested and analyzed and put into our permit  
that we put out there so -

1  
2       **MS. WHYTE:** This is what they stated very  
3 specifically within the letter that's within the  
4 comment -- that came in within the comment period and  
5 so we did meet with them and we discussed our strategy  
6 for revising the TMDL and I think that we've come to  
7 agreement on what needs to be done in order to meet the  
8 federal requirements.

9       **MR. WALDECK:** Good. Thank you.

10  
11       **CHAIRMAN MULLER:** Okay, a couple more cards here. I  
12 believe it's Laurel Marcus, please, Executive Director  
13 of California Land Stewardship and then Timothy  
14 Stephens with Department of Fish and Game if you want  
15 to make a little brief comment.

16       **MS. MARCUS:** Good morning. My name is Laurel  
17 Marcus, I'm the Executive Director of the California  
18 Land Stewardship Institute and we're the non-profit  
19 organization that operates the fish friendly farming  
20 program, which is cited in the documents. We operate  
21 that program in Mendocino, Sonoma, Napa, and Solano  
22 Counties and a total of ten different watersheds, many  
23 of which are listed for fine sediment.

24  
25       I want to give you a brief overview of the program  
and its development and then a little bit about its

1 current status in Napa. The Fish Friendly Farming  
2 Program began in 1997 in the Russian River watershed.  
3 The program was originally envisioned as a marketing  
4 program with some environmental review for farming  
5 practices.

6  
7 We had a large group of grape growers, agencies and  
8 regulators, environmental groups and the grape growers  
9 requested that instead of focusing on marketing that we  
10 focus on regulatory compliance and science based  
11 management practices so we did that.

12 In 2002 the Fish Friendly Farming Program was  
13 adapted for Napa County, largely at the request of  
14 agricultural organizations and environmental  
15 organizations. We had about a year's worth of meetings  
16 with the agencies, growers, and a number of other  
17 organizations. In Napa the program is sometimes often  
18 referred to as Napa Green, you'll hear that term.

19 What finally has come out of all of these different  
20 efforts is a program that addresses the requirements of  
21 a large number of different state and federal laws.  
22 These include non-point pollution control programs,  
23 including the fine sediment and temperature TMDLs,  
24 Endangered Species Act listings of salmon and  
25 steelhead, state water rights licensing, CEQA as it

1 applies to new vineyard designs, California Fish and  
2 Game code and pesticide regulations.

3  
4 We also include different types of local  
5 regulations, grading ordinances and such, in the  
6 workbook for each different county. Now every year we  
7 have an open enrollment and growers enroll their sites  
8 and each site goes through a farm planning process, and  
9 the process is very comprehensive and very detailed.

10 Each site is assessed first of all, for its  
11 natural features: what are its slopes and landforms,  
12 its soils and geology, its vegetation types, what is  
13 the extent of its entire drainage network, and this is  
14 not just blue line creeks, this also includes ephemeral  
15 creeks and then what are its past and current land  
16 uses.

17 Agricultural lands and management practices are  
18 also assessed. These include vineyard size, layout,  
19 and slope, the vineyard drainage type, the entire  
20 system is mapped out, its locations are put on a map  
21 and then the condition of all of its outlets and inlets  
22 is assessed. Soil conservation practices,  
23 particularly, winterization techniques are assessed,  
24 water conservation practices for both irrigation and  
25 frost control, as well as water supply facilities  
operations.

1  
2 This is a part of what we do look at and whether or  
3 not there is a water right for the facility. Chemical  
4 use including the timing method of application of  
5 chemicals and then those -- the toxicity of materials  
6 used for fish and wildlife, we do specific work to  
7 analyze that.

8 Vineyard fencing and deer passage, condition of  
9 ephemeral creeks, the need for erosion control and  
10 revegetation is all assessed. In addition, we look at  
11 all of the existing erosion sites on the property,  
12 whether they're associated with a vineyard or a past  
13 historic use like a logging road and we look for  
14 erosion potential so all of the roads current and  
15 historic are assessed, all historic and active gullies,  
16 and then all concentrated flow sources: coverts,  
17 ditches, outlets.

18 We also do a detailed assessment of blue line  
19 creeks and this includes measurement of the bank  
20 they'll channel with, the riparian corridor width, and  
21 bank heights. We evaluate the bed composition and the  
22 channel form, the extent, diversity, and abundance of  
23 native and invasive plant species, the seasonality of  
24 flow and incidents of bank erosion and flooding.

1 We, specifically in the Napa River, evaluate  
2 channels for incision since that is the dominant  
3 process. The idea is to identify erosion problems and  
4 potential problems and apply improved practices or  
5 repairs before sediment enters the waterways.  
6 Improvements are prioritized by severity and the  
7 potential for delivery.

8 Creek restoration revegetation, including invasive  
9 species control, is also identified and practices are  
10 revised and projects implemented. Since incision is  
11 one of the major sediment sources we use restoration  
12 practices that focus on reducing flow velocities and  
13 reducing the incision process rather than simply  
14 putting vegetation on banks.

15 For each identified problem in the farm plan a BPM,  
16 which we've used to mean Beneficial Management  
17 Practices because the farmers felt that Best Management  
18 Practices wasn't indicative of the level of effort they  
19 put in to this program, for each problem a BPM is  
20 prescribed or a project is defined. Then we typically  
21 work with the growers and the agencies to cost share  
22 any of the major projects.

23  
24 The final step is the farm conservation plan  
25 completed by the grower and our scientific staff is  
certified. The certification is done by the regulators

1 and this includes NOAA fisheries, staff original boards  
2 1 or 2 depending on where we are, California Department  
3 of Fish and Game and now we are including the Ag  
4 Commissioners for each county.

5  
6 The agency members read the plan and they inspect  
7 the site. They can add other requirements to the plan  
8 as long as they're consistent with the program and each  
9 agency rights a certification letter. Not every site  
10 passes, but if you don't pass you know what you have to  
11 do in order to be able to pass. Each certified site  
12 photomonitors at an approved set of photo points and we  
13 are now working with a number of agencies in the Napa  
14 drainage to link our program up with regional water  
15 quality monitoring programs. Each site is re-certified  
16 every five years.

17 The five year period was instituted at the  
18 suggestion of the original group of agencies that  
19 worked on the program. We revise the BMPs in the  
20 workbook about every two years to address issues  
21 brought up by the agencies or by the growers.

22 Now I want to give you some specific numbers.

23 **CHAIRMAN MULLER:** I'm going to need you to conclude  
24 soon.

1           **MS. LAUREL:** Okay. In Napa County since 2004  
2 17,871 acres have been enrolled. On these properties  
3 we have assessed 38.41 -- 38.4 miles of blue line  
4 creek, 9.7 miles of the Napa River and 105.3 miles of  
5 dirt roads. We have certified 7,050 acres and it's  
6 mostly -- most of this work has been supported by a 319  
7 grant.

8           **CHAIRMAN MULLER:** Thank you. I've heard a number of  
9 great things about your organization so I complement  
10 you on that.

11  
12           **MS. LAUREL:** Thank you.

13  
14           **CHAIRMAN MULLER:** Thank you and you might leave  
15 staff a card so I could take it home for our watershed  
16 group.

17  
18           **MS. LAUREL:** Sure, okay.

19           **CHAIRMAN MULLER:** Thank you very much.

20  
21           **MS. LAUREL:** Thank you.

22  
23           **CHAIRMAN MULLER:** Thank you, Department of Fish and  
24 Game, actually that last speaker can take care of all  
25 our problems then it sounds like, right? I think if I  
-- excuse me for interrupting, many years ago some one

1 mentioned if I was king for a day what I would do and I  
2 would take care of sediment, right? That's our  
3 environmental issue of the world is sediment, but I'm  
4 not king so Timothy -

5  
6 **MR. WOLFE:** Too much or too little.

7  
8 **CHAIRMAN MULLER:** -- you could be king.

9  
10 **MR. STEPHENS:** I am Tim Stephens with the  
11 Department of Fish and Game, the Central Coast Region,  
12 which encompasses your region and I'm pleased to be  
13 here to actually support staff so I'm going to try for  
14 the most concise and shortest comments and those are  
15 basically that you have our written comments and we've  
16 been working very well together so we're very very  
17 happy and really impressed by the work that staff has  
18 done.

19  
20 **CHAIRMAN MULLER:** Thank you, Tim. That concludes  
21 the speaker cards, unless someone else has a comment to  
22 quickly add, Dr. Gary Wolfe.

23  
24 **MR. WOLF:** I just thought I'd enter a small piece  
25 of information into the record since we have so many  
people here from Napa. I'm not sure how many people  
have heard or not, this would've been part of my  
general report to you, but we approved some grants last

1 week and in the grants that were approved last week we  
2 had a \$500,000 grant approved for the Napa River  
3 Sediment Reduction and Habitat Enhancement Plan.

4  
5 **CHAIRMAN MULLER:** No wonder why you guys get invited  
6 up there and we don't. Congratulations, a good start  
7 really.

8 **MS. WHYTE:** That's just a start, Gary.

9  
10 **MR. WOLF:** I understand. I'm simply reporting the  
11 facts, ma'am.

12  
13 **CHAIRMAN MULLER:** So that brings to -- that's  
14 wonderful. Sure. I just I'll let the board comment  
15 and then I'll conclude with this planning process here  
16 so Ms. De Luca.

17  
18 **MS. DE LUCA:** Yes, well I've listened with great  
19 interest, of course, and I am taken by the commitment  
20 and the concerns and the passion that I feel in the  
21 exposition of this particular issue. I have followed  
22 it very carefully for twelve years that I served on  
23 this board.

24 For personal reasons it's not a secret that my  
25 family's source of livelihood is the wine industry in  
the state of California and that my husband and I have

1 a daughter and her family live in the city of Napa. So  
2 we watch with great interest and spend part of our  
3 lives with them in that wonderful community, sharing  
4 their concerns and their travails and the heartaches  
5 that occur when the calamities of weather beset them.

6  
7 I think that the science that this represents, and  
8 it has been a long time in coming because science  
9 evolves it's nothing that develops overnight, so we  
10 have seen this very carefully very cautiously advancing  
11 the cause of science over the past 12 years and it's  
12 taken us this long to get to this point. So I think  
13 that that bespeaks a remarkable commitment that the  
14 staff has made to the development of this project and  
15 this process which will take us to completion  
16 ultimately.

17 I'm very interested in pursuing in as much as I can  
18 this concern that was brought to our attention by  
19 Leslie Ferguson regarding the national designation,  
20 because without that conduit for the funding that we  
21 need to push forward, the project -- flood control  
22 project, you know, we'll be having conversations like  
23 this for many years to come and we cannot afford that,  
24 because the river is a source of the economic and  
25 cultural life of the Napa Valley.

1 We must attend to it. The governor has shined a  
2 spotlight on it and, of course, there are other  
3 agencies and levels of government that have impeded the  
4 flow of resources to the Napa Valley and to the Sonoma  
5 Valley for that matter and have created problems that  
6 were it otherwise might not have occurred so  
7 dramatically this past year. So it's in our interest  
8 to do everything we can personally and professionally  
9 to bring those interests to the floor.

10 I think the public relations, the education effort  
11 is very important and I want to thank the Supervisor of  
12 the Napa Valley, Ms. Dillon, for coming to us and the  
13 other officials who have come to us to elevate the  
14 importance of this issue.

15  
16 So with that I want to continue to pledge my  
17 concern and my interest and my commitment to continue  
18 and in any way that I can to forward the issue of the  
19 restoration of the Napa Valley with respect to its  
20 being the parent of the Napa River and my  
21 congratulations to the staff, all the scientists, who  
22 has put their shoulder to the wheel in this thing and  
23 my - my -

24 Mr. Smith I see you there and, of course, I'm  
25 interested very much in the comments you made regarding  
the passion that we must all have for this project,

1 otherwise it's not going to go much farther. So it  
2 will take all of us to do this and let's just keep  
3 doing what we're doing.

4  
5 **CHAIRMAN MULLER:** Thank you. Clifford.

6  
7 **MR. WALDECK:** I'd like to echo the comments of Ms.  
8 De Luca and it seems like everybody is pretty much on  
9 the same page. I think staff made an excellent  
10 presentation and I don't see any acrimony between  
11 competing parties here. This is kind of nice to see.  
12 I just want to reiterate, you know, as US EPA looks at  
13 this and chimes in on this here, that you keep the  
14 lines of communications very much open and if you're  
15 going to error on getting information or thoughts to  
16 our board either on the too early side or the too late  
17 side I'd appreciate the too early side. Thanks.

18  
19 **CHAIRMAN MULLER:** Shalom.

20  
21 **MR. ELIAHU:** Yes, and I want to commend staff for  
22 the tremendous and excellent job that they did. It's  
23 really a very good first step. I'm sure this is the  
24 first [Inaudible] and I hope we can learn from it quite  
25 a lot in the future.

26  
27 **CHAIRMAN MULLER:** Thank you. As we can all see the  
28 Board has a tremendous commitment to this TMDL, which

1 is not an easy situation out there and I want to remind  
2 staff and -- and thank you for bringing it to this  
3 point, that if we've received any new testimony today  
4 and information that you take it into consideration and  
5 work with the stakeholders that have been presented  
6 here today, that we ensure as Board Member Waldeck  
7 stated, that we get this thing -- everyone on the same  
8 page, which it looks like we're pretty close.

9       And, as Ms. De Luca stated for the past 10 years  
10 that I've been sitting here, our job really is to do  
11 what's best for the water quality for this Bay area and  
12 that's what we're working towards and I think we've  
13 always really tried hard not to hurt individuals or  
14 municipalities while we're doing that. But again,  
15 we're dealing with natural causes out there that we  
16 need to work on and we don't have total control over  
17 all those natural things thank goodness or we'd mess  
18 those up.

19       So I think we'll move it forward in this planning  
20 process and I know how hard you have all worked on it  
21 so I thank you for that and I know we can get to the  
22 commenter's concerns too between the good science  
23 that's changing some practicality and balance and how  
24 we balance this environment of ours to meet the needs  
25 as was commented by Farm Bureau, that we don't hurt  
anybody in particular while we're going through this

1 process so I thank you for that and at this time this  
2 planning process will move on until the next hearing  
3 when we will be making a decision soon.

4  
5 It looks like, unfortunately, Ms. De Luca might not  
6 be here at that time. She will be moving on to other  
7 ventures and hopefully her grandchildren will be able  
8 to swim in the Napa River too soon, knowing them  
9 they'll swim the length of it probably.

10 So we'll move on from that and we have Dr. Gary  
11 Wolf to make comments and I thank everyone for taking  
12 the time out of their busy schedules to be here.

13  
14 **MS. WON:** Mr. Chair, I just have a small  
15 housekeeping matter.

16  
17 **CHAIRMAN MULLER:** Sorry, we have a legal issue.

18  
19 **MS. WON:** It appears at 11:25 the Board lost its  
20 form, so at that point it converted from a hearing to a  
21 workshop and I just want to state for the purposes of  
22 the record that the transcript of the workshop and the  
23 hearing will be made available to the full membership  
24 for the adoption hearing on the sediment TMDL.

25 **CHAIRMAN MULLER:** Thank you for that legal counsel,  
that's why we have you here.